

**IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF VIRGINIA**

Richmond Division

ePLUS INC.,	)	
	)	
Plaintiff,	)	
	)	
v.	)	Case No. 3:09CV620 (REP)
	)	
LAWSON SOFTWARE, INC.,	)	
	)	
	)	
Defendant.	)	

**DEFENDANT LAWSON SOFTWARE, INC.’S MEMORANDUM IN SUPPORT OF  
MOTION FOR JUDGMENT AS A MATTER OF LAW ON SECTION 101 INVALIDITY**

On July 7, 2010, Lawson moved for summary judgment on the legal issue of validity pursuant to section 101. Whether a claim is drawn to patent-eligible subject matter under 35 U.S.C. § 101 is an issue of law for the Court to decide. *In re Ferguson*, 558 F.3d 1359, 1363 (Fed. Cir. 2009). The Court denied that motion. (Doc. No. 357.) In its opinion, the Court suggested that there might be some fact issues in dispute. (*Id.*) Specifically, the Court stated that “there are genuine disputes of material facts as to the issues underlying the legal issue of patentability (specifically Lawson’s asserted Facts Nos. 9-11)”. (*Id.*) These facts are as follows:

9. The Court’s April 30, 2010 Memorandum Opinion (“Markman Order”) construes the disputed claim elements in the Asserted Claims. None of the Asserted Claims as construed by the Court in its Markman Order recite any transformation of any products or any other physical transformation, or special purpose computers. *See, e.g.*, Memorandum Opinion dated April 30, 2010 (Dkt. No. 204) at 45-52.

10. ePlus’s damages expert Russell Mangum, based on his discussions with ePlus’s infringement expert Alfred Weaver, stated “The patented technology is inherent in having an eProcurement system.” Expert Report of Russell Mangum III, dated 5/3/2010, at 27 (Exh. B).

11. One of the listed inventors, Robert Kinross, described the conception of the patented invention as follows (12/2/09 Dep. at p. 203) (Exh. C):

Q. Please describe for me what was conceived in 1993.

A. Well, the idea of having an electronic catalog with Fisher data and other catalog data to support the SPS group and the capability of rapidly searching that data and the capability of making it a closed-loop system, so that once the data was found you could actually do something with it rather than just print your findings and fax or mail documents. So it would be a complete end-to-end procurement system.

Lawson does not believe that there are any fact issues in dispute that preclude this Court from deciding the issue of validity under section 101. Lawson further believes that the question of invalidity under section 101 is fully reserved for appeal. Nevertheless, in an abundance of caution, Lawson moves for judgment as a matter of law on the legal issue of invalidity under section 101 for the same reasons previously set forth in its summary judgment brief filed on July 7, 2010. For the foregoing reasons, Lawson respectfully requests that this Court grant judgment as a matter of law for Lawson on the issue of invalidity under section 101.

LAWSON SOFTWARE, INC.

By /s/  
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**CERTIFICATE OF SERVICE**

I certify that on this 24<sup>th</sup> day of January, 2011, a true copy of the foregoing will be filed electronically with the Clerk of Court using the CM/ECF system, which will send a notification of such filing (NEF) to the following:

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